

## Message Text

CONFIDENTIAL

PAGE 01 OTTAWA 10103 030011Z  
ACTION EUR-12

INFO OCT-01 ISO-00 ERDA-05 AID-05 CEA-01 CIAE-00  
COME-00 DODE-00 EB-08 FPC-01 H-01 INR-07 INT-05  
L-03 NSAE-00 NSC-05 OMB-01 PM-05 USIA-06 OES-07  
SP-02 SS-15 STR-05 TRSE-00 ACDA-12 FEA-01 FTC-01  
JUSE-00 XMB-02 OPIC-03 SEC-01 FRB-03 /118 W  
-----039241 030043Z /70

P 022356Z DEC 77  
FM AMEMBASSY OTTAWA  
TO SECSTATE WASHDC PRIORITY 5560  
INFO AMCONSUL MONTREAL  
ALL OTHER AMCONSULS CANADA POUCH

C O N F I D E N T I A L OTTAWA 10103

E.O. 11652: GDS  
TAGS: ENRG, CA  
SUBJECT: POLITICAL COMPROMISE TAKES SHAPE IN WAKE OF  
SUPREME COURT RULING ON SASKATCHEWAN OIL SURTAX

REF: OTTAWA 9950

1. SUMMARY: FOLLOWING SUPREME COURT RULING THAT SASKATCHEWAN OIL TAX WAS UNCONSTITUTIONAL, PRINCIPAL ACTORS-- SASKATCHEWAN, FEDERAL GOVERNMENT AND THE OIL COMPANIES-- SEEM TO BE MOVING FAIRLY RAPIDLY TOWARD POLITICAL COMPROMISE. FEDERAL GOVERNMENT HAS PROTECTED ITS CONSTITUTIONAL PREROGATIVES, OIL COMPANIES ARE NO LONGER THREATENED BY WHAT THEY CONSIDER TO BE CONFISCATORY TAXATION POLICY AND SASKATCHEWAN WILL PROBABLY GET TO KEEP BULK OF REVENUE COLLECTED BY ILLEGAL TAX. RETROACTIVE TAX ON EARNED INCOME OF OIL COMPANIES WILL BE VEHICLE FOR COMPROMISE. TAX RATE IS TO BE NEGOTIATED WITH OIL COMPANIES. COURT DECISION WILL ALSO EASE PRESSURE BY SASKATCHEWAN ON POTASH PRODUCERS.  
END SUMMARY.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 OTTAWA 10103 030011Z

2. IN WEEK SINCE SASKATCHEWAN OIL SURTAX FOUND UNCONSTITUTIONAL, ELEMENTS OF POSSIBLE COMPROMISE BETWEEN FEDERAL GOVERNMENT, GOVERNMENT OF SASKATCHEWAN (GOS) AND OIL COMPANIES CAME INTO FOCUS. SUPREME COURT RULING SATISFIES FEDERAL GOVERNMENT'S INTEREST IN RESOLVING CONSTITUTIONAL ISSUE SO THAT ITS PREROGATIVES RESPECTING INDIRECT TAXATION AND INTER-PROVINCIAL TRADE ARE MAINTAINED. RULING, HOWEVER,

IS A NARROW ONE IN SENSE THAT IT DOES NOT SET DOWN NEW TERMS FOR FEDERAL-PROVINCIAL RELATIONSHIP IN RESOURCE POLICY. IT MERELY REAFFIRMS STATUS QUO.

3. OIL COMPANIES HAVE ALSO MADE THEIR POINT. THIS FORM OF TAXATION IN WHICH PROVINCIAL GOVERNMENT SETS CEILING ON EARNINGS AND TAKES REMAINDER IN TAXES HAS BEEN RULED ILLEGAL.

4. UNRESOLVED QUESTION THOUGH IS TERMS OF SETTLEMENT TO BE REACHED BETWEEN GOS, CIGOL AND OTHER CONCERNED OIL COMPANIES. IT IS QUITE LIKELY THAT THE FEDERAL GOVERNMENT WILL PLAY AT LEAST AN INDIRECT ROLE IN SUCH SETTLEMENT WHICH IS LIKELY TO BE LEAD ITEM ON AGENDA WHEN PRIME MINISTER TRUDEAU VISITS SASKATCHEWAN PREMIER BLAKENEY LATER THIS MONTH.

5. SINCE IT WOULD BE FISCALLY AND POLITICALLY DISASTROUS FOR GOS TO PAY BACK C DOLLARS 600 MILLION PLUS COLLECTED IN REVENUE FROM OIL COMPANIES UNDER SURTAX AND NEITHER FEDERAL GOVERNMENT NOR OIL COMPANIES WANT TO PLAY THE VIL-LAIN BY SEEMING TO HANG SASKATCHEWAN TAXPAYER OUT TO DRY (THEREBY RISKING EXPOSURE TO SHARP POLITICAL ATTACK BY BLAKENEY), COMPROMISE MUST BE REACHED TO ALLOW SASKATCHEWAN TO KEEP BULK OF REVENUES COLLECTED UNDER NOW-ILLEGAL TAX.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 OTTAWA 10103 030011Z

6. GOS INTRODUCED LEGISLATION DECEMBER 2 TO REPLACE VOIDED SURTAX AND PROVIDE BASIS FOR NEGOTIATED COMPROMISE ON BOTH STATUS OF FUNDS COLLECTED AND NEW TAXATION. IN ORDER TO PROTECT REVENUES ALREADY COLLECTED FROM OIL COMPANIES GOS WILL ENACT TAX RETROACTIVE TO JANUARY 1, 1974, ON EARNED INCOME. GOS MAINTAINS THAT TAX IS DIRECT AND THEREFORE CONSTITUTIONAL. NEW TAX WILL UNDOUBTEDLY BE CLOSELY SCRUTINIZED BY FEDERAL GOVERNMENT. GOS BILL, HOWEVER, DOES NOT SPECIFY TAX RATE. IN PRESS CONFERENCE FOLLOWING TABLING OF BILL, GOS ATTORNEY GENERAL AND DEPUTY PREMIER ROY ROMANOW SAID TAX RATE WILL BE ESTABLISHED AFTER MEETING WITH OIL COMPANIES, ALTHOUGH HE IS MAINTAINING PUBLIC POSTURE THAT GOS WILL NOT NEGOTIATE WITH COMPANIES. GOS HAS ASKED CANADIAN PETROLEUM ASSOCIATION TO ORGANIZE MEETING. GOS OBVIOUSLY INTENDS TO SEE HOW MUCH THE OIL COMPANIES WILL CONCEDE AND WILL THEN SET TAX RATE ACCORDINGLY.

7. DEVELOPMENTS SINCE SUPREME COURT RULING HAVE HAD SIGNIFICANT INDIRECT EFFECT ON FUTURE OF POTASH INDUSTRY IN SASKATCHEWAN. EMBASSY HAS LEARNED THAT GOS IS WILLING TO SETTLE ITS OUTSTANDING TAX PROBLEM WITH POTASH PRODUCERS'

GOS TOLD INTERNATIONAL MINERALS AND CHEMICALS (IMC) PRESIDENT THAT IT WOULD ELIMINATE THE CONTROVERSIAL POTASH RESERVES TAX AND SUBSTITUTE AN INCOME TAX. IN EXCHANGE GOS WOULD ISSUE STATEMENT THAT IMC WOULD NOT BE EVALUATED OR PURCHASED. THIS ACCOMMODATION OF COURSE NEATLY PARALLELS PROBABLE COMPROMISE WITH OIL COMPANIES.

8. EMBASSY WILL REPORT FURTHER DEVELOPMENTS. ENDERS

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** SUPREME COURT, OILS, COURTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 02-Dec-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977OTTAWA10103  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D770448-0655  
**Format:** TEL  
**From:** OTTAWA  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1977/newtext/t197712100/aaaadgry.tel  
**Line Count:** 124  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** 03eb20fb-c188-dd11-92da-001cc4696bcc  
**Office:** ACTION EUR  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 77 OTTAWA 9950  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 27-Dec-2004 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 103888  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** POLITICAL COMPROMISE TAKES SHAPE IN WAKE OF SUPREME COURT RULING ON SASKATCHEWAN OIL SURTAX  
**TAGS:** ENRG, CA  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/03eb20fb-c188-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009